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## REVIEWS AND CRITICISMS

present day social and intellectual advancement. The importance of this development in criminal jurisprudence becomes evident when we consider that these principles which for the first time are being questioned are based upon certain philosophic abstractions of the latter eighteenth century, abstractions which in other spheres of intellectual endeavor have for some time been discredited.

It must be pointed out that whereas in Hungary the movement for reform centers about the penal system, in the United States it is being directed against the system of criminal procedure, and is primarily for a reform in the judiciary. Moreover, in the United States the movement is essentially one for the improvement of administration, but in Hungary the problems are evidently far more fundamental in character.

The reforms which M. de Balogh proposes are neither new nor startling and have for some time been incorporated in the penal system of Great Britain and to a certain extent in that of the United States. They embrace a scientific study of criminals, reclassification of penalties, provisions for juvenile offenders and the introduction of better measures of prevention. In short, they represent the most advanced ideas in penal science and must inevitably be introduced into the law of all nations if the treatment of criminals is to conform with the exigencies of present progress.

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THE FORENSIC SIGNIFICANCE OF CONGENITAL SYPHILIS. By Priv. Doz. Felix Plaut. Psych. Clinic at Munich. *Zeitschr. f. d. Gesamte Neurologie und Psychiatrie*. Bd. II. H5.

Since the advent of the Wassermann reaction for the diagnosis of syphilis, a good deal more light has been thrown on the nature of juvenile psychopathy. The author reports a number of cases of juvenile delinquents who came under his observation at the Munich clinic and who showed a positive Wassermann reaction in the blood serum and in some instances slight pathological changes in the spinal fluid. When we remember that about one-third of the living children of paretics inherit syphilis from the parent so affected, the importance of determining whether these juvenile delinquents are syphilitic becomes at once apparent. Prior to the advent of the Wassermann reaction, however, investigation in this direction has been rather unsatisfactory, inasmuch as many congenital syphilitics show none of those physical signs which we are wont to consider as pathognomonic of hereditary lues. Hence the importance of this test. When we come to consider the so-called mental stigmata of hereditary syphilitics, still greater confusion and uncertainty prevail. We shall have no difficulty from a forensic standpoint in those cases which show pronounced symptoms of mental disorder, and the Wassermann reaction can aid us here only from a therapeutic standpoint. But what of the large number of borderland cases who, without showing distinct signs of mental disorder, are yet so different from normal man as to preclude the idea of holding them equally responsible for their deeds with normal

man. That an inherited syphilitic infection has its distinct deleterious effects upon the physical and mental development of the child so affected cannot be doubted but there still exists considerable uncertainty as to the exact nature of the mental defects of hereditary luetics. In the author's experience these youngsters rarely show a mere intelligence defect *per se*. They are rather characterized by an arrested development of their emotional and volitional faculties, the very same defect which in most instances characterizes the grown-up criminal. It is hoped that this paper will stimulate those who have the care of the delinquent youth in hand to utilize to a greater extent than has been the case heretofore in this country, this valuable adjunct—the Wassermann reaction. It not only gives us an indication as to the probable cause of juvenile delinquency but may prove of inestimable value from a therapeutic standpoint.

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DIE BEGRIFFE STRAFE UND SCHAUDENSERSATZ. *By Giulio Q. Battaglini.* Translated by *Franz Wallan* of Bonn, for the *Archiv für Recht und Wirtschaftsphilosophie*, April, 1911.

This is an interesting dissertation on the concepts of punishment and compensatory damages. The author claims that the two concepts should be kept distinct. Herein we agree with him; our only wonder is that Battaglini should so painstakingly distinguish them, denying at length their interchangeability. But, while we may not see the direct practical value in his research, we heartily endorse and favor theoretical works of this kind, for, by them the errors in proposed renovations and much heralded returns to some Golden Age are made apparent. A thorough theoretical knowledge is the best foundation for practical work. Its lack has led to many deplorable practical blunders in our country and the present political endorsement of the rule of thumb makes a theoretical study of the philosophical, and sociological basis of juridical problems of great educational value.

Battaglini begins his essay by stating that punishment and damages are penalties imposed by law for the infraction of a primary legal duty—the former, criminal; the latter, civil. The distinction of the last phrase, however, is only formal. And, furthermore, the old distinction carried on the kind of interest, protected whether public or private, cannot be considered lucid, for every statute protects interests of both kinds. The statute protecting the right of suffrage protects a private right, while one protecting property is in the interest of all, as well as of him who owns the particular object protected. There can be no accurate division by this test. And yet, Battaglini will not have the two concepts confused. He opposes Merkel and Heinze for holding that damages are a kind of punishment. To show the difference he writes that a punishment is not reparative, it does not cure the harm done the victim by the crime, whereas damages are compensatory, and as far as possible restore things to *Status quo*—another proof, as he thinks, that damages are not a punishment, is the fact that many acts entail both consequences